



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

SEP 29 2014

OFFICE OF  
GENERAL COUNSEL

Christopher Horner  
Senior Fellow  
Competitive Enterprise Institute  
1899 L Street, NW, 12<sup>th</sup> Floor  
Washington, D.C. 20036

Re: Freedom of Information Act Request No. EPA-HQ-2014-006434

Dear Mr. Horner:


I am writing in regard to your FOIA request, EPA-HQ-2014-006434, seeking certain records sent to or from employees in the Office of General Counsel that refer or relate to Gina McCarthy and text messaging, as described by your May 13, 2014 request.

By letter dated June 12, 2014, the Office of General Counsel ("OGC") notified you that it had collected records responsive to your request, and intended to comply with your request for records by releasing non-exempt, responsive portions of records and withholding other records or portions of records under 5 U.S.C. §552(b)(5) & (6). OGC has finished its search and review of documents responsive to your request. My office has made substantial progress on finishing the redaction of records that can be released to you in part. On July 30, 2014 we provided you with the first production of responsive documents. On August 6, 2014 we sent you a follow up letter which, among other things, informed you of the number of documents this office was withholding in part, and notified you that we required additional time to complete the processing of your request. By this letter I am providing the third production of documents responsive to your request.

Portions of the attached documents have been withheld under 5 U.S.C. §552(b)(5), the Deliberative Process Privilege, the Attorney Client Privilege, and the Attorney Work Product Privilege. The withheld portions of these documents are predecisional and deliberative and would harm agency decision making if released, are confidential communications between an agency attorney and client concerning legal advice and/or are documents prepared by, or at the direction of, an attorney in contemplation of litigation. Portions of these documents have also been withheld under 5 U.S.C. §552(b)(6), Personal Privacy. These portions of documents contain personal information which would be an unwarranted invasion of personal privacy if released.

OGC notified you of unusual circumstances in our letter of June 12, 2014. OGC will require a final extension of time to complete redactions on a final set of documents that were identified for release in part. The Office of General Counsel expects to provide you with this final production on or before October 9, 2014, and will provide you appeal instructions at that time. Thank you for your patience as my office completes the processing of the records you requested. In the interim, please contact Lynn Kelly of my staff at 202-564-3266 or via email at [kelly.lynn@epa.gov](mailto:kelly.lynn@epa.gov) with questions regarding the status of your request. In addition, you may contact the EPA FOIA Public Liaison, Larry Gottesman, at 202-566-1667 or [Gottesman.larry@epa.gov](mailto:Gottesman.larry@epa.gov), to assist with this matter.

Sincerely,

  
for

Kevin Miller  
Assistant General Counsel  
Office of General Counsel

Enclosures:  
September 29 Release, Part 3